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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
10/009,579	03/22/2002	Lou Franciscus M. H. De Leij	05032-00098	1723
22910 RANNER & '	7590 10/29/2007 WITCOFF, LTD.		EXAMINER ,	
28 STATE ST			QIAN, CELINE X	
28th FLOOR BOSTON, MA 02109-9601		ART UNIT	PAPER NUMBER	
			1636	
		·	MAIL DATE	DELIVERY MODE
			10/29/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)				
,	10/009,579	DE LEIJ ET AL.				
Office Action Summary	Examiner	Art Unit				
	Celine X. Qian Ph.D.	1636				
The MAILING DATE of this communicate	tion appears on the cover sheet with	the correspondence address				
Period for Reply						
A SHORTENED STATUTORY PERIOD FOR WHICHEVER IS LONGER, FROM THE MAIL - Extensions of time may be available under the provisions of 3' after SIX (6) MONTHS from the mailing date of this communic - If NO period for reply is specified above, the maximum statuto - Failure to reply within the set or extended period for reply will, Any reply received by the Office later than three months after the earned patent term adjustment. See 37 CFR 1.704(b).	ING DATE OF THIS COMMUNICATION OF THIS COMMUNICATION. In no event, however, may a repation. The period will apply and will expire SIX (6) MONTH by statute, cause the application to become ABA	ATION. ly be timely filed HS from the mailing date of this communication. NDONED (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed o	n <u>22 August 2007</u> .					
2a) This action is FINAL . 2b)	This action is FINAL . 2b)⊠ This action is non-final.					
<i>,</i> —						
closed in accordance with the practice	under <i>Ex parte Quayle</i> , 1935 C.D.	11, 453 O.G. 213.				
Disposition of Claims						
4)⊠ Claim(s) <u>1,2,4-9,20,21 and 24</u> is/are pending in the application.						
4a) Of the above claim(s) is/are v	4a) Of the above claim(s) is/are withdrawn from consideration.					
5) Claim(s) is/are allowed.						
6)⊠ Claim(s) <u>1,2,4-9,20,21 and 24</u> is/are rej	ected.	·				
7) Claim(s) is/are objected to.						
8) Claim(s) are subject to restriction	n and/or election requirement.					
Application Papers		•				
9) The specification is objected to by the E	xaminer.					
10)⊠ The drawing(s) filed on 30 October 200	<u>/</u> is/are: a)⊠ accepted or b)□ ob	ected to by the Examiner.				
Applicant may not request that any objection	n to the drawing(s) be held in abeyanc	e. See 37 CFR 1.85(a).				
Replacement drawing sheet(s) including the	· · · · · · · · · · · · · · · · · · ·	· · · ·				
11) The oath or declaration is objected to by	the Examiner. Note the attached	Office Action or form PTO-152.				
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for a) All b) Some * c) None of:	foreign priority under 35 U.S.C. § 1	119(a)-(d) or (f).				
 Certified copies of the priority do 	cuments have been received.					
	cuments have been received in Ap					
·	he priority documents have been re	eceived in this National Stage				
application from the International	, , , , , , , , , , , , , , , , , , , ,	anaiyad				
* See the attached detailed Office action for	or a list of the certified copies not re	eceiveu.				
Attachment(s)	, , □					
 Notice of References Cited (PTO-892) Notice of Draftsperson's Patent Drawing Review (PTO- 	.948) Paper No(s)/	mmary (PTO-413) Mail Date				
3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date		ormal Patent Application -				

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DETAILED ACTION

Claims 1, 2, 4-9, 20, 21 and 24 are pending in the application.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/22/07 has been entered.

Response to Amendment

The rejection of claim 14 under 35 U.S.C.112 1st paragraph is moot because the claim is canceled.

The rejection of claims 1, 2, 4-9, 20, 21 and 24 under 35 U.S.C.112 1st paragraph has been withdrawn in light of Applicant's amendment.

Claims 1, 2, 4-9, 20, 21 and 24 are rejected under 35 U.S.C.112 2nd paragraph for reasons set forth below.

A telephone call was made on 10/25/07 to discuss the case for a potential allowance but fail to Applicant's representative. The office action is thus issued.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 1, 2, 4-9, 20, 21 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the recitation of "a promoter region encoding nucleotides 3200 to 3556 of SEQ ID NO:5" renders the claim indefinite because a promoter does not encodes nucleotides. Claims 2, 4-9, 20, 21 and 24 are rejected because they depend on claim 1. It would be remedial to amend the claim to recite "comprising."

Regarding claim 7, the recitation of "an isolated or recombinant nucleic acid sequence according to claim 1 further comprising a suicide gene or functional fragment thereof" renders the claim indefinite because it is unclear it the functional fragment is for the nucleic acid according to claim 1 or the suicide gene.

Claim Objections

Claims 2, 4-9, 20, 21 are objected to for reciting "an isolated or recombinant nucleic acid according to claim 1 or 5 or 20" because the parent claim is directed to only one isolated or recombinant nucleic acid. It would be remedial to change "a" to "the."

No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Celine X. Qian Ph.D. whose telephone number is 571-272-0777. The examiner can normally be reached on 9:30-6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joe Woitach Ph.D. can be reached on 571-272-0739. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Celine X Qian Ph.D. Examiner Art Unit 1636

CELINE QIAN, PH.D. PRIMARY EXAMINER